

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MONIQUE ADAMS

Claimant

APPEAL NO. 20A-UI-06034-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 03/22/20

Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 21, 2020, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 13, 2020. Claimant participated. Employer participated by Tim Luse. Claimant's Exhibit A was admitted.

ISSUES:

Whether claimant quit for good cause attributable to employer?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on or around June 24, 2019. Claimant voluntarily quit on that date, as she felt uncomfortable that a former employee who had recently been terminated returned to the store while she was working the overnight shift.

Claimant was hired in early June, 2019 to work as a cashier for employer. Within a couple weeks of her hire, claimant experienced a coworker, and that person's friend shouting using insulting racial comments while in the store. Claimant told management, and the coworker was immediately fired. The next day, the fired coworker came back to the store while claimant was working the overnight shift. This made claimant extremely uncomfortable and she chose to quit her position.

Employer immediately acted on claimant's previous complaint and terminated the coworker. Employer stated if told about the fired coworker reentering the store, immediate steps would have been taken by contacting the police and having the fired coworker barred from the store.

Additionally, the store manager stated that further prosecution of the coworker could have been pursued.

Claimant never told employer of the fired coworker's return to the store.

Claimant has received state unemployment benefits in this matter in the amount of \$2,416.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter in the amount of \$4,200.00.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because a coworker who had previously shouted insulting racial comments returned to the store during claimant's shift.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* In this matter, it is understood that claimant was upset upon seeing the return of the fired coworker. But, claimant had already seen that management completely was supportive of claimant. Upon claimant's complaint, the coworker was immediately fired. If claimant had informed management of the return of the coworker, he would have been immediately barred, and police would have alerted the coworker that further visiting of the store would be considered trespassing. As claimant did not share the information with employer, employer could not act. Therefore, employer cannot be held to have created the good cause reason for claimant's quit.

Claimant has received state unemployment benefits in this matter in the amount of \$2,416.00. These benefits are overpayments.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter in the amount of \$4,200.00. Claimant is not currently eligible to receive FPUC payments.

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

- a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault,

the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) (a) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The decision of the representative dated May 21, 2020, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Claimant has received state unemployment benefits in this matter in the amount of \$2,416.00. These benefits are overpayments.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter in the amount of \$4,200.00. Claimant is not currently eligible to receive FPUC payments.



Blair A. Bennett
Administrative Law Judge

July 22, 2020
Decision Dated and Mailed

bab/sam